

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

THE ESTATE OF ROGER D.  
OWENSBY,  
PLAINTIFF,

VS.

CITY OF CINCINNATI, ET AL.  
DEFENDANTS.

CASE No.: C-1-01-769

JUDGE SPIEGEL

## DECLARATION OF JOHN J. HELBLING

1. I, John J. Helbling, am trial counsel for Plaintiffs in the above-captioned case.
2. On May 16, 2002, the parties appeared before the Court at a preliminary pretrial conference. Prior to meeting with the court, my co-counsel, Mr. Mark Tillar, and I had numerous phone calls with Mark Vollman, and Michael Harmon, Assistant City Solicitors. During these conversations, the parties discussed various issues pertaining to Rule 26(f), Federal Rules of Civil Procedure. Both Mr. Vollman and Mr. Harmon, as well as Mr. Tillar and I, agreed that we would discuss these issues, along with the status of the Federal Criminal Investigation by the Department of Justice with the Court at the Preliminary Pretrial Conference.

3. On May 16, 2002, all parties attended a Preliminary Pretrial Conference with Judge Spiegel. At that time, the court addressed various issues pertaining to this case – to include those matters included in Rule 26 – and determined that a Stay of Proceedings should be issued on all matters pending determination as to the ongoing Federal Criminal Investigation. The Court addressed this to all parties and entertained input from all counsel prior to making this determination with the acquiescence of all counsel present. The Court set a new date of August 14, 2002 for a second Preliminary Pretrial Conference.
4. On August 14, 2002, the parties again met with the Court to discuss various issues pertaining to this matter – to include a discovery schedule. At that time, Judge Spiegel again requested information from Counsel for the City of Cincinnati as to the status of the Federal Criminal Investigation. During this time, the investigation from the City of Cincinnati had not released their final determinations on this matter. Considering these factors, Judge Spiegel continued the Stay of Proceedings on this matter and set a new date for a third Preliminary Pretrial Conference for October 16, 2002.
5. On October 16, 2002, the parties again met and discussed various issues pertaining to Rule 26 and the Court lifted its Stay of Proceedings to allow discovery between the parties. The court set a date for a Status Conference for January 30, 2003.
6. Between October 16, 2002 and January 30, 2003, I, as well as Mark Tillar, had various conversations with opposing counsel Vollman for the City of Cincinnati regarding the status of discovery previously requested. Counsel Vollman explained that, due to the expungement order regarding Defendant Jorg, they were not able to comply with our discovery request. Thereafter, a telephone conference with this Court occurred on Friday, November 8, 2002.

These discovery issues were unable to be resolved by said conference and Plaintiff filed a Motion To Compel Discovery.

7. On January 30, 2003, all parties met with the Court to discuss various issues pertaining to this case. At that time, Judge Spiegel discussed his view on the City of Cincinnati's refusal to comply with Plaintiff's discovery request and clarified that the Federal Rules and case law supported the disclosure of the requested discovery and that Defendant Jorg's criminal expungement order did not preclude such disclosures. At that time, the parties verbally reviewed various issues pertaining to discovery and other matters in accordance with Rule 26. Judge Spiegel then established a Scheduling Order as set forth in Document 32 of this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 5<sup>th</sup> day of December 2003.

/s/ John J. Helbling  
JOHN J. HELBLING  
Attorney for Plaintiffs